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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

13 CR 485 (CM)

5 FAOUZI JABER and ALI FAYAD,

6 Conference

7 Defendant.

8 -----x  
9 New York, N.Y.  
10 January 11, 2017  
4:05 p.m.

11 Before:

12 HON. COLLEEN MCMAHON,

13 District Judge

14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the  
Southern District of New York

17 GEORGE D. TURNER

Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK

19 Attorneys for Defendant Jaber

20 JONATHAN MARVINNY

21 LOUIS G. ADOLFSON

Attorney for Defendant Fayad

22 ALSO PRESENT: MARWAN ABDEL-RAHMAN, Interpreter (Levantine  
23 Arabic)

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1 (Case called)

2 MR. TURNER: Good afternoon. George Turner for the  
3 government.

4 THE COURT: Good afternoon, Mr. Turner.

5 MR. MARVINNY: Good afternoon. Federal Defenders of  
6 New York by Jonathan Marvinny. I'm standing in for Sabrina  
7 Shroff, who's on trial.

8 MR. ADOLFSON: Judge, Louis Adolfson for Ali Fayad.

9 THE INTERPRETER: Your Honor, can I have a minute to  
10 fix the equipment?

11 THE COURT: You certainly may have a minute to fix the  
12 thing.

13 MR. TURNER: Your Honor, I have not previously spoken  
14 to --

15 THE COURT: Hang on. Hang on. We're going to fix  
16 this up.

17 MR. TURNER: It is a 13 CR.

18 THE DEPUTY CLERK: Start from the top, Judge.

19 THE COURT: We've got the appearances.

20 So here we are. What's going on, Mr. Turner?

21 MR. TURNER: Your Honor, there were three defendants  
22 indicted in this case. The only defendant who is here is  
23 Mr. Jaber. He was extradited in April of this past year, 2016.  
24 Discovery has been produced, and it was the government's  
25 intention to ask for at least a motion schedule today from the

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1 Court.

2 As I understand it, Mr. Adolfson represents Ali Fayad,  
3 who is one of the other two defendants in this case. An  
4 extradition request for the other two defendants is pending and  
5 has been pending for some time. Those two defendants are in  
6 Lebanon, your Honor.

7 THE COURT: Hi, counsel. How are you?

8 MR. ADOLFSON: Well, your Honor.

9 THE COURT: But your client is not here?

10 MR. ADOLFSON: He's not here. He's not here. His  
11 extradition was denied by the Czech Republic, and he was sent  
12 to Lebanon. My understanding, Mr. Turner, was that the  
13 Lebanese government, which does not have an extradition treaty  
14 with the United States but, nonetheless, complies with  
15 requests, has denied extradition.

16 THE COURT: Has what?

17 MR. ADOLFSON: Denied extradition.

18 THE COURT: Well, I'm going forward with Mr. Fayad.  
19 I'm sorry. Going forward with Mr. Jaber on the theory I have  
20 one defendant here. I don't have the two other defendants.  
21 I'm not waiting for them.

22 MR. TURNER: Particularly given the timing and the  
23 long period of time that the extradition requests have been out  
24 there, your Honor, the government agrees with that approach.

25 THE COURT: Right.

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1 MR. ADOLFSON: Your Honor, can I be heard briefly?

2 THE COURT: On that?

3 MR. ADOLFSON: No, not on that subject.

4 THE COURT: What would you like me to do?

5 MR. ADOLFSON: I've tried once before, and I'm  
6 required to tell you. Once before I was in the Southern  
7 District for Mr. Fayad when he was in the Czech Republic, and I  
8 asked Judge Castel, he was on Part 1, to issue an order  
9 directing the U.S. Attorney's Office to appear for deposition  
10 in Lebanon. He denied my request and said that he had no  
11 jurisdiction because Mr. Fayad was not here and that I should  
12 inform any judge of his decision. So I'm informing you right  
13 now that that happened.

14 THE COURT: Fine. Let's talk about what this case is  
15 really about. This case is about Mr. Jaber. It's not about  
16 anybody else or anything else. I realize Ms. Shroff is the  
17 lawyer on the case, but I have to set a motion schedule and  
18 this case has to start to move.

19 MR. MARVINNY: That's fine, Judge.

20 THE COURT: It's a very old case. Do you have any  
21 idea, Mr. Marvinny, what motions Ms. Shroff might be  
22 contemplating?

23 MR. MARVINNY: I'm sorry. I'm sorry, your Honor. I  
24 don't. I know she asked for a motion schedule.

25 THE COURT: I'm comfortable setting one. I'm not

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1 comfortable not setting one. So she's currently on trial. Do  
2 we know how long that's going to be?

3 MR. MARVINNY: Supposed to be a two- to three-week  
4 trial, your Honor. It started on Monday.

5 THE COURT: All right. Defense motions by  
6 February 10. Government response by March 3. Defense reply by  
7 March 10.

8 THE DEPUTY CLERK: Let's pop it on for March 23 at  
9 3:45.

10 THE COURT: Thursday, March 23, at 3:45. Time  
11 excluded in the interest of justice, the defendant's interest  
12 in a speedy trial being outweighed by the need or desire of his  
13 counsel to make motions to the Court. And, obviously, that's  
14 all statutorily excluded time.

15 MR. MARVINNY: Yes, your Honor. May I have one moment  
16 before you adjourn this?

17 THE COURT: Of course.

18 MR. MARVINNY: Thank you.

19 (Pause)

20 MR. MARVINNY: Your Honor.

21 THE COURT: Yes.

22 MR. MARVINNY: I think Mr. Jaber wishes to address the  
23 Court. I think it's not consistent with my advice, but I don't  
24 think he's going to be doing himself any harm. I believe he  
25 wants to represent to the Court that the other two defendants

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1 have been released and are free in Lebanon.

2 THE DEFENDANT: The Lebanese Minister of Justice  
3 refused to surrender the two other defendants to the United  
4 States government. They set them free in Lebanon. And the  
5 brother of Fayad also was released. He was one of the  
6 kidnappers or the hijackers.

7 THE COURT: Okay. Then, Mr. Jaber, you'll just have  
8 to face this all by yourself, because I'm not releasing you  
9 until after your trial and you're acquitted.

10 THE DEFENDANT: Of course.

11 THE COURT: So the fate of the other gentlemen is  
12 really of no particular interest to me. This is your case, and  
13 yours alone, as far as I'm concerned.

14 MR. MARVINNY: Thank you, your Honor.

15 THE DEFENDANT: I just wanted to save the Court some  
16 time by bringing this information to the Court's attention.

17 THE COURT: Thank you. Fortunately, all my time is  
18 for Mr. Jaber. Great.

19 (Adjourned)  
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